

In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL.)

November 27, 2000

Dear Xxxxx:

This letter is in response to your letter dated October 24, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am the City Attorney for the CITY. The City needs a clarification regarding sales tax. Presently, contractors are doing work on private property, constructing sewer lines, water lines and other infrastructure, which will subsequently, at a later point in time, be dedicated to the CITY. These contractors have asked the City to provide them exemption for sales tax. The City has rejected this request due to the fact that these are not purchases by the City and are not for public infrastructure at the present time. Granted, if the infrastructure is dedicated to the City, it will then become property of the City. We have had numerous requests in this regard, and the City has consistently maintained the prior policy. Please provide me with any information which you may have relative as to whether or not this would be exempt for sales tax purposes.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling tangible personal property at retail. A "sale at retail" is any transfer of the ownership of, or title to, tangible personal property to a purchaser, for use or consumption and not for resale in any form as tangible personal property, for a valuable consideration. See the enclosed copies of 86 Ill. Adm. Code 130.101 and 130.201.

Please find enclosed copies of 86 Ill. Adm. Code 130.1940 and 130.2075 regarding the tax liabilities of contractors in Illinois. The term "construction contractors" includes general contractors, subcontractors, and specialized contractors such as landscape contractors. The term "contractor" means any person or persons who are engaged in the occupation of entering into and performing construction contracts for owners. In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. Therefore, any tangible personal property that general

contractors or subcontractors purchase that will be permanently affixed to or incorporated into real property in this State will be subject to Use Tax. If contractors did not pay the Use Tax liability to their suppliers, contractors must self-assess their Use Tax liability and pay it directly to the Department.

Please note that 86 Ill. Adm. Code 130.2075(e) provides that tangible personal property which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer requirement, is exempt from Retailers' Occupation Tax and Use Tax. To claim the exemption, contractors must provide their suppliers with the exemption identification number of the governmental unit to which the public improvements will be transferred upon completion. The pre-development transfer agreement may take any of the forms contained in subsection (e)(1-4).

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.